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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

ROBERT LEVIN and **KARL KYZER**, on Behalf)
of Themselves and all Others Similarly Situated,)

Plaintiffs,)

v.)

THE CHARLES SCHWAB CORPORATION,)
CHARLES SCHWAB & CO. INC., CHARLES)
SCHWAB INVESTMENT MANAGEMENT,)
INC., CHARLES R. SCHWAB, EVELYN)
DILSAVER, RANDALL W. MERK, MARIANN)
BYERWALTER, DONALD F. DORWARD,)
WILLIAM A. HASLER, ROBERT G. HOLMES,)
GERALD B. SMITH, DONALD R. STEPHENS)
and MICHAEL W. WILSEY,)

Defendants.)

No. 08-cv-02487 WHA

PLAINTIFFS ROBERT LEVIN AND
KARL KYZER'S STATEMENT OF
NON-OPPOSITION TO MOTION TO
RELATE CASES

Action filed: May 15, 2008

Defendants move pursuant to Local Rule 3-12(b) for a determination that the *Levin v. The Charles Schwab Corporation, et al.*, Case No. 08-cv-02487 WHA (“*Levin*”) is related to *Labins v. The Charles Schwab Corporation, et al.*, Case No. 08-cv-01510 WHA (“*Labins*”); *Hageman v. The Charles Schwab Corporation, et al.*, Case No. 08-cv-01733 WHA (“*Hageman*”); *Glasgow v. The Charles Schwab Corporation, et al.*, Case No. 08-cv-01936 WHA (“*Glasgow*”); *Flanzraich v. The Charles Schwab Corporation, et al.*, Case No. 08-cv-01994 WHA (“*Flanzraich*”); and *Vinayak R. Pai Defined Benefits Pension Plan v. The Charles Schwab Corporation, et al.*, Case No. 08-cv-02058 WHA (“*Pai*”) within the meaning of Civil Local Rule 3-12(a). While Defendants claim to have complied with Local Rule 7-11 by attempting to obtain a stipulation from all counsel, the undersigned attorney has no record of such an e-mail and was out of the country when an e-mail was apparently sent.

Nevertheless, Plaintiffs Levin and Kyzer agree that the case should be related, but not consolidated, at least not at this time. The actions cover many of the same events and have overlapping classes. While the *Labins*, *Hageman*, *Glasgow*, *Flanzraich* and *Pai* cases are based on the Securities Act of 1933 (15 U.S.C. §§ 77k, 77i and 77c) claims, *Levin* is based on the Investment Company Act of 1940 (15 U.S.C. § 80a-43; 28 U.S.C. §§ 1331, 1332(d)(2) and 1367) and state law claims.

Relation before the same judge would be efficient and avoid duplication.

Accordingly, Plaintiffs Levin and Kyzer do not oppose Defendants’ request that this Court enter an order relating the *Levin* action to the *Labins*, *Hageman*, *Glasgow*, *Flanzraich* and *Pai* actions.

Dated: June 3, 2008

HAGENS BERMAN SOBOL SHAPIRO LLP

By /s/ Reed R. Kathrein
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CERTIFICATE OF SERVICE

I hereby certify that on June 3, 2008, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the e-mail addresses registered, as denoted on the attached Electronic Mail Notice List, and I hereby certify that I have mailed the foregoing document or paper via the United States Postal Service to the non-CM/ECF participants indicated on the attached Manual Notice List.

/s/ Reed R. Kathrein
REED R. KATHREIN

Mailing Information for a Case 3:08-cv-02487-WHA

Electronic Mail Notice List

The following are those who are currently on the list to receive e-mail notices for this case.

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Manual Notice List

The following is the list of attorneys who are **not** on the list to receive e-mail notices for this case (who therefore require manual noticing). You may wish to use your mouse to select and copy this list into your word processing program in order to create notices or labels for these recipients.

- (No manual recipients)